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House Bill 4544 (Substitute H-2 as passed by the House)
House Bill 4727 (as passed by the House)
Sponsor: Representative Kevin Elsenheimer
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 2-6-06

CONTENT

House Bills 4544 (H-2) and 4727 would amend the Michigan Penal Code and the Code of Criminal Procedure, respectively, to do all of the following:

- Delete provisions that make it a misdemeanor for an unauthorized person to equip a vehicle with a police radio receiver or to use such a vehicle.**
- Prohibit a person from carrying or possessing, while committing or attempting to commit a crime, a radio that received frequencies reserved for police, fire, or emergency medical purposes, and prescribe criminal penalties for a violation.**
- Include a felony violation of the proposed offense in the sentencing guidelines.**

House Bill 4544 (H-2) would take effect 90 days after its enactment. House Bill 4727 is tied to House Bill 4544.

House Bill 4544 (H-2)

The Michigan Penal Code prohibits a person from equipping a vehicle with a radio receiving set that will receive signals sent on frequencies assigned by the Federal Communications Commission (FCC) for police purposes, or using such a vehicle, unless the vehicle is used or owned by a peace officer or a bona fide amateur radio operator holding an appropriate license issued by the FCC, without first securing a permit to do so from the Director of the Department of State Police. The bill would delete that provision.

The bill instead would prohibit a person from carrying or possessing, in the commission or attempted commission of a crime, a radio receiving set that received signals sent on a frequency assigned by the FCC for police, fire-fighting, or emergency medical purposes. If the underlying crime were a misdemeanor with a maximum term of imprisonment of less than one year, a violation of the bill would be a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both (which is the penalty for a violation of the current prohibition). If the underlying crime were a misdemeanor or a felony with a maximum term of imprisonment of one year or more, a violation of the bill would be a felony punishable by up to two years' imprisonment, a maximum fine of \$2,000, or both.

House Bill 4727

The bill would list the felony offense proposed by House Bill 4544 (H-2) in the sentencing guidelines. Carrying or possessing a scanner in the commission of a crime would be a Class

G felony against the public order, with a statutory maximum sentence of two years' imprisonment.

MCL 750.508 (H.B. 4544)
777.16x (H.B. 4727)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many individuals have been convicted of equipping a vehicle with or using a vehicle equipped with a police radio receiver without a permit. To the extent that some offenders may not have been aware of the permit requirement, some would avoid conviction for lacking such a permit under the bills. Local governments would incur reduced incarceration costs in their local facilities, which vary by county.

There are no data to indicate how many offenders would be convicted of carrying or possessing a radio capable of receiving signals sent on a frequency assigned by the FCC for police, fire-fighting, or emergency medical purposes in the commission of a crime. An offender convicted of the Class G offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 7-23 months. For both the proposed felony and the proposed misdemeanor, local governments would incur the cost of incarceration in local facilities. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Eliminating the requirement to obtain a permit from the State Police in order to equip a vehicle with a police radio receiver would result in annual administrative savings of approximately \$40,000 for the Department of State Police. During FY 2003-04, the Department issued 1,071 such permits.

Fiscal Analyst: Bruce Baker
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.